

IN THE DISTRICT COURT OF THE UNITED STATES
OF THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

2005 OCT 25 A 9:30

LEON FOY#155322
PLAINTIFF/PETITIONER[S]

VS.

BOB RILEY et al.,
DEFENDANT[S]

MOTION FOR OBJECTION TO
MAGISTRATE JUDGE FINDING
AND RECOMMENDATION

COMES NOW, PLAINTIFF/PETITIONER[S] LEON FOY#125322, PURSUANT TO
28 U.S.C.A SECTION 636(B)(1) AND MOVES THIS HONORABLE COURT FOR
RESUBMISSION TO MAGISTRATE JUDGE McPHERSON TO HOLD AN EVIDENTIARY
HEARING TO DETERMINE BOTH FACTUAL ALLEGATIONS AND LEGAL CONCLUSIONS
AND PLAINTIFF[S] MOTIONS FOR EMERGENCY INJUNCTION AND FOR CLASS
CERTIFICATION. IN SUPPORT OF SAID MOTION THE PLAINTIFF WILL STATE
THE FOLLOWING GROUNDS;

1. THE PLAINTIFF/PETITIONER[S] IN THIS INSTANT CASE CLEARLY SUPPORT
IN THEIR MOTION FOR INJUNCTION RELIEF ALL FOUR ELEMENTS FOR RELIEF.

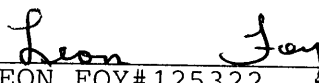
2. BY DEMONSTRATING A SUBSTANTIAL LIKLIHOOD OF SUCCESS ON THE
MERITS AND HAD THE HONORABLE JUDGE McPHERSON HELD AN EVIDENTIARY
HEARING ON THE FIRST ISSUE OF THE PLAINTIFF/PETITIONER[S] REQUEST
WHICH STATED "THE DEFENDANTS ARE TO BRING OR GET THE ALABAMA
INSTITUTIONS DOWN TO IT'S ORIGINAL DESIGNED CAPACITY WITHIN 30 DAYS
OF FILING THIS INJUNCTION. THE PLAINTIFF/PETITIONER[S] REQUEST THIS
HONORABLE JUDGE McPHERSON TO OVER RULE HER RECOMMENDATION AND LOOK
CLOSELY AT THE PLAINTIFF/PETITIONER[S] FIRST ISSUE THE REQUESTED AN
EMERGENCY INJUNCTION AND THE PLAINTIFF/PETITIONER[S] COMPLAINT AND
EXHIBITS CLEARLY DEMONSTRATED A SUBSTANTIAL LIKELIHOOD OF SUCCESS
ON THE MERITS. THE PLAINTIFF/PETITIONER[S] AND OTHER SIMILAR SITUATED
CURRENT AND FUTURE ALABAMA STATE PRISONERS ARE SUFFERING IRREPARABLE
HARM AND REQUEST THIS HONORABLE TO HOLD AN EVIDENTIARY HEARING
ON SAID ISSUE

3. THE PLAINTIFF/PETITIONER[S] REQUEST THIS HONORABLE COURT TO OVER RULE IT'S RECOMMENDATION AND HOLD AN EVIDENTIARY HEARING ON THE PETITIONERS THIRD ISSUE FOR EMERGENCY INJUNCTION RELIEF THAT STATES AS FOLLOWS "THE DEFENDANT[S] ARE TO PROVIDE NO LESS THAN THE PROPER SECURITY GUARDS FOR THE WELFARE AND SAFETY OF EACH ALABAMA INSTITUTIONS".

4. AND HAD THE HONORABLE JUDGE McPHERSON HELD THE APPROPRIATE EVIDENTIARY HEARING CONCERNING THE FACTUAL ALLEGATIONS AND LEGAL CONCLUSIONS, SHE WOULD HAVE ACKNOWLEDGED THE PLAINTIFF/PETITIONER[S] AND OTHER SIMILAR SITUATED CURRENT AND FUTURE ALABAMA STATE PRISONERS ARE SUFFERING IRREPARABLE HARM.

WHEREFORE, THE PLAINTIFF/PETITIONER[S] REQUEST THIS HONORABLE COURT TO OVER RULE HER RECOMMENDATION AND HOLD AN EVIDENTIARY HEARING

DONE ON THIS 19TH DAY OF OCTOBER, 2005



LEON FOY #125322
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